IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	J. Stewart	Examiner:	A. Shang
Serial No.	10/055,758	Group Art Unit:	2623
Filed:	January 23, 2002	Docket No.	PU020021
Title:	PROVIDING MULTIMEDIA ON DEMAND IN A NEAR ON DEMAND ENVIRONMENT		
Customer No.:	24498		

APPELLANT'S BRIEF

MAIL STOP: APPEAL BRIEF - PATENTS
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

Sir:

This brief is in furtherance of the Notice of Appeal in this case, timely filed on November 16, 2007. Applicant hereby appeals to the Board from the decision of the Examiner in the Final Office Action dated July 13, 2007 and the Advisory Action dated October 9, 2007 that rejected the pending claims 1, 2, 5, 6, 8-12, 15, 16, and 18. Accordingly, claims 1, 2, 5, 6, 8-12, 15, 16, and 18 are now on appeal. This Brief is accompanied by authorization to charge the requisite fee set forth in § 41.20(b)(2) in the amount of $500.00 to Deposit Account 07-0832.

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is Thomson Licensing Inc., the assignee of record.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

The status of claims of all the claims in the application, claims 1, 2, 5, 6, 8-12, 15, 16, and 18, is set forth in Appendix A of this brief. Claims 1, 2, 5, 6, 8-12, 15, 16, and 18 are rejected under 35 U.S.C. §103(a) in the Final Office Action dated July 13, 2007 and the Advisory Action dated October 9, 2007. Claims 3-4, 7, 13-14, and 17 are cancelled.

IV. STATUS OF AMENDMENTS

Appellant filed an Amendment on August 31, 2007 after the Final Office Action dated July 13, 2007. In particular, claims 8-11 were amended to correct minor informalities. Appellant assumes that these amendments have been entered as the Examiner has not indicated otherwise.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1 is directed to a method that provides beginning segments for pre-recording by subscribers where each beginning segment corresponds to ones of a plurality of multimedia presentations. See Specification, page 9, lines 1-5. Each beginning segment has a duration at least as long as a predetermined time interval. See Specification, page 9, lines 1-5. The predetermined time interval may be a "specified length 'L'" See Specification, page 9, lines 1-5. A variety of examples of pre-recording beginning segments are provided: recording beginning segments prior to system installation, upon initial activation of the multimedia system, and after a search of channels

that have not yet been recorded. See Specification, page 9, lines 5-12. Further, the method transmits each one of said plurality of multimedia presentations concurrently on a plurality of channels with identical presentations transmitted on a different channel of said plurality of channels. See Specification, page 5, lines 10-11 and page 8, lines 8-15. Fig. 3A provides an example of the near multimedia on demand environment in that four different channels concurrently broadcast the same multimedia presentation. However, the start time for the presentation on each channel differs so that the user does not have to wait for the completion of the multimedia presentation on any given channel before having an opportunity to start watching the multimedia presentation from the beginning. Accordingly, the start time of each transmission has a periodic interval not exceeding said predetermined time interval. See Specification, page 8, lines 8-15. In addition, the method responds to a subscriber request for performance of a selected one of said plurality of multimedia presentations by providing said subscriber an authorization to commence playback of one of said beginning segments corresponding to said selected one of said plurality of multimedia presentations. See Specification, page 10, lines 18-25, Fig. 4. The authorization comprises at least one of an authorization to commence recording said selected one of said plurality of multimedia presentations for which broadcast has already begun, and to commence playback of said corresponding one of said beginning segments. See Specification, page 10, lines 18-25, Fig. 4. For example, the authorization code can include a descrambling code key. See Specification, page 10, lines 27-29. Finally, the method **prevents playback** of said recording of said selected one of said plurality of multimedia presentations upon completion of said presentation. See Specification, page 14, lines 10-15. Examples of preventing the playback are ***inhibiting, removing, or erasing*** the programming from the multimedia recorder 210. See Specification, page 14, lines 10-15.

Independent Claim 11 is directed to a system that provides multimedia presentations on demand in a near on demand environment. The system includes a transmitter. An example of the transmitter is the broadcaster communications unit 108.

The transmitter includes a means for providing a plurality of beginning segments. An example of the means is the broadcast system controller 102, which interacts the multimedia source 104 to obtain the plurality of beginning segments. See Fig. 1. Each of the plurality of beginning segments corresponds to one of a plurality of multimedia presentations. See Specification, page 9, lines 1-5. Further, each said beginning segment has a duration at least as long as a predetermined interval. See Specification, page 9, lines 1-5. The predetermined time interval may be a "specified length 'L'" See Specification, page 9, lines 1-5. The transmitter also includes a means for transmitting said plurality of said multimedia presentations on a plurality of channels, with a periodic interval between start times of identical programming broadcast on different channels not exceeding said predetermined interval. See Specification, page 5, lines 10-11 and page 8, lines 8-15. An example of this means is the multimedia broadcasting unit 106, which can transmit the plurality of said multimedia presentations on a plurality of broadcast channels concurrently. See Specification, page 5, lines 7-15. The system also includes an authorization control system 110 responsive to a subscriber request for performance of a selected one of said multimedia presentations. See Fig. 1. The authorization control system provides said subscriber an authorization to commence playback of said multimedia presentation. See Specification, page 10, lines 18-25, Fig. 4. The authorization comprises at least one of an authorization to commence recording said selected one of said multimedia presentations for which broadcast has already begun, and to commence playback of a corresponding one of said beginning segments. See Specification, page 10, lines 18-25, Fig. 4. Finally, the system includes a performance control system 112 for preventing subscriber playback of said recording of said selected one of said multimedia presentations upon presentation completion. See Specification, page 14, lines 10-15, Fig. 1.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 2, 5, 6, 8-12, 15, 16, and 18 are rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,701,528 ("Arsenault") in view of U.S. Patent No. 6,002,694 ("Yoshizawa").

VII. ARGUMENT

REJECTION OF CLAIMS 1, 2, 5, 6, 8-12, 15, 16, and 18 UNDER 35 U.S.C. 103(a)

The Examiner rejected claims 1, 2, 5, 6, 8-12, 15, 16, and 18 under 35 U.S.C. 103(a) as being obvious over Arsenault" in view of Yoshizawa. With respect to independent claim 1 (which is the representative claim being argued in this brief), Appellant previously argued in the Response dated August 31, 2007 that neither Arsenault nor Yoshizawa, alone or in combination, teaches playback prevention after the completion of a selected presentation, as recited in claim 1. See Response dated August 31, 2007, page 6. In the Advisory Action dated October 9, 2007, the Examiner admits that Arsenault is silent on playback prevention, but contends that Yoshizawa provides this teaching. See Advisory Action dated October 9, 2007, page 2. In particular, the Examiner contends that "outside of the specific time, the viewer is not able to view of [sic] review unless the view pay [sic] for the request" and cites to col. 5, lines 46-53 of Yoshizawa. See Advisory Action dated October 9, 2007, page 2. As will be discussed, this section of Yoshizawa simply does not teach playback prevention. On the contrary, Yoshizawa allows for as much viewing as the user desires and is only directed to how the user is billed for that viewing.

Yoshizawa is directed to a specific time period in which re-viewing of a purchased program is allowed without an extra charge. If the user would like to re-view the purchase program outside that time window, the user is not prevented from doing so, but must pay an additional charge. For example, the concept taught in Yoshizawa is seen in many modern day video on demand systems. A user may purchase a video through a video on

demand system and get billed a fee for that purchase on his or her monthly statement. That purchase may allow the user to watch the video multiple times throughout a day without having to pay any additional fees. However, if the subscriber would like to watch the video a week later, the user will have to repurchase the video and get billed another fee that shows up on his or her monthly statement.

The section of Yoshizawa which is used by the Examiner to make up what elements are missing in Arsenault is within a paragraph that explains that a determination is made as to whether to send a program ID to a billing side or not. See Yoshizawa, col. 5, lines 31-52. Specifically, Yoshizawa discloses that a received program ID (which accompanies a multiplexed audio/video stream) is matched against "all programs which were viewed in a specific time and are stored in the program ID processing means to see whether or not there is a program ID coincident with the detected program ID information," Yoshizawa, col. 5, lines 39-42). If there is no pre-existing program ID stored in the stored program ID information, the receiver means will send the program ID information to the billing side (presumably to bill a customer for viewing a program, Yoshizawa, col. 5, lines 42-44) and store such program ID information in the receiver (Yoshizawa, col. 5, lines 45-46). Otherwise, if the program ID information matches stored program ID information, "it is deemed as the re-viewing of a program within a specific time and the program ID information thereof is neither stored or transmitted," (Yoshizawa, col. 5, lines 48-53).

Clearly, the combination of Arsenault with Yoshizawa is for a system that allows a user to view a program multiple times within a pre-set time limit. This cited to combination by the Examiner discloses a solution which prevent a user for being billed for such multiple viewing, as program ID information will not be transmitted to a billing center if such information is already stored in a receiver (for a specified time period). In contrast, the present invention of Claim 1 is concerned with the invention of "preventing playback of said recording of said selected one of said plurality of multimedia presentations upon completion of said presentation", which directed towards preventing

playback of a presentation when such a playback is completed. Presumably, the combination of Arsenault with Yoshizawa would allow for multiple viewing of a program after the presentation of such a program is completed, which is not the same thing as what is claimed in Claim 1.

Moreover, that Examiner's statement that "outside of the specific time, the viewer is not able to view of [sic] review unless the view pay [sic] for the request" is simply not taught in Yoshizawa. As Yoshizawa teaches sending a bill to subscribers, which is clearly after the subscriber watches the program, payment is not a precondition to watching a program as characterized by the Examiner. Yoshizawa further explains that the time window is purely for billing purposes by stating that "[s]ince the program code of the program descrambled by the signal processing system is transmitted to the billing side and the same program is transmitted only once within the specifically set unit time even if the same program is viewed a plurality of times, the subscriber can view the same program a plurality of times within the specific time with a same fee." See Yoshizawa, col. 17, lines 47-53.

Accordingly, Yoshizawa with Arsenault, alone or in combination does not prevent playback of a selected presentation after such a presentation is completed, as claimed in Claim 1. For example, if a user purchases a program and then attempts to replay that program outside of a time window such as a 24 hour window, the user would be prevented from replaying that program until he or she makes another payment under the Examiner's interpretation of Yoshizawa. However, as discussed above, Arsenault with the combination of Yoshizawa, actually allows the user to replay that program to completion multiple times without any preconditions of payment as long such playback occurs within a specific time (in this example 24 hours). Presumably, the billing side in Yoshizawa with Arsenault would notified of the replay outside of the 24 hour window so that the bill eventually submitted to the user shows the additional charge. This system has nothing to do with "preventing playback of said recording of said selected one of said plurality of multimedia presentations upon completion of said presentation", because aspect of

considering the completion of a presentation is neither disclosed nor suggested in Arsenault with Yoshizawa, alone or in combination, as what is claimed in Claim 1. The time window of Arsenault with Yoshizawa only has an impact on what charges appear on the user's bill after the program has been viewed.

Therefore, Appellant submits that the rejection of independent claim 1 should be withdrawn. Further, the rejections of claims 2, 5, 6, and 8-10 should be withdrawn as these claims depend from claim 1.

Appellant also submits that the rejection of independent claim 11 should be withdrawn for the same reasons discussed with respect to independent claim 1. Further, the rejections of claims 12, 15-16, and 18 should be withdrawn as these claims depend from claim 11.

VIII. CLAIMS APPENDIX

A complete listing of the claims involved in this appeal is attached hereto as Appendix A.

IX. EVIDENCE APPENDIX

Appellant does not submit any additional evidence and, therefore, an Appendix B is hereby attached indicating "none."

X. RELATED PROCEEDINGS APPENDIX

Appellant states that there are no relevant related proceedings and, an Appendix C is hereby attached indicating "none."

XI. CONCLUSION

The Examiner has not shown in the cited prior art where one may find support for rejections of the pending claims on Appeal. There is simply no disclosure/support pointed out by the Examiner that is even relevant to the features positively recited in claims 1, 2, 5,

6, 8-12, 15, 16, and 18. Appellant contends that the rejections are traversed and overcome, in light of the arguments presented above.

The allowance of all claims on Appeal is therefore respectfully requested. An Oral Hearing is not requested.

Respectfully submitted,

Date: January 16, 2008

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Attachments:
- Appendix A: Claims on Appeal
- Appendix B: Evidence
- Appendix C: Related Proceedings

APPENDIX A

CLAIMS ON APPEAL

The following is a listing of all claims, pending or canceled, incorporating all elements and revisions to date. All non-canceled claims are on appeal, canceled claims being canceled without prejudice or disclaimer.

1. (Previously Presented) A method for providing multimedia presentations on demand in a near on demand environment, comprising:

a) providing beginning segments for pre-recording by subscribers where each beginning segment corresponds to ones of a plurality of multimedia presentations, each beginning segment having a duration at least as long as a predetermined time interval;

b) transmitting each one of said plurality of multimedia presentations concurrently on a plurality of channels with identical presentations transmitted on a different channel of said plurality of channels, and with a start time of each transmission having a periodic interval not exceeding said predetermined time interval,

c) responding to a subscriber request for performance of a selected one of said plurality of multimedia presentations by providing said subscriber an authorization to commence playback of one of said beginning segments corresponding to said selected one of said plurality of multimedia presentations,

said authorization comprises at least one of an authorization to commence recording said selected one of said plurality of multimedia presentations for which

broadcast has already begun, and to commence playback of said corresponding one of said beginning segments, and

preventing playback of said recording of said selected one of said plurality of multimedia presentations upon completion of said presentation.

2. (Original) The method of claim 1, further comprising the step of providing said subscribers with a menu of said plurality of multimedia presentations.

Claims 3-4 (Cancelled)

5. (Previously Presented) The method of claim 1, wherein said authorization comprises a descrambling code key for descrambling said selected one of said plurality of multimedia presentations and said corresponding one of said beginning segments.

6. (Previously Presented) The method of claim 1, wherein said authorization comprises an access code for accessing a channel over which said selected one of said plurality of multimedia presentations is transmitted.

Claim 7 (Cancelled)

8. (Previously Presented) The method of claim 1, further comprising generating a billing code responsive to said subscriber request for said selected one of plurality of multimedia presentations.

9. (Previously Presented) The method of claim 1, further comprising recording each said beginning segment provided to said subscriber automatically, responsive to said subscriber's initial activation of a multimedia system.

10. (Previously Presented) The method of claim1, further comprising periodically replacing ones of said beginning segments with new beginning segments corresponding to further multimedia presentations.

11. (Previously Presented) A system for providing multimedia presentations on demand in a near on demand environment, comprising;

a transmitter including:

means for providing a plurality of beginning segments, each one corresponding to one of a plurality of multimedia presentations, and each said beginning segment having a duration at least as long as a predetermined interval;

means for transmitting said plurality of said multimedia presentations on a plurality of channels, with a periodic interval between start times of identical programming broadcast on different channels not exceeding said predetermined interval;

an authorization control system responsive to a subscriber request for performance of a selected one of said multimedia presentations, said authorization control system providing said subscriber an authorization to commence playback of said multimedia presentation wherein,

said authorization comprises at least one of an authorization to commence recording said selected one of said multimedia presentations for which

broadcast has already begun, and to commence playback of a corresponding one of said beginning segments; and

a performance control system for preventing subscriber playback of said recording of said selected one of said multimedia presentations upon presentation completion.

12. (Previously presented) The system of claim 11, wherein said transmitter transmits to a subscriber a menu of said plurality of multimedia presentations to permit subscriber selection of one of said multimedia presentations.

Claims 13-14 (Cancelled)

15. (Previously Presented) The system of claim 11, wherein said authorization comprises a descrambling code key for descrambling a beginning segment corresponding to said selected one of said multimedia presentations for which a broadcast is in progress.

16. (Previously Presented) The system of claim 11, wherein said authorization comprises an access code for accessing a channel over which said selected one of said multimedia presentations is broadcast.

Claim 17 (Cancelled)

18. (Original) The system of claim 11, further comprising a billing control system generating a billing code responsive to a subscriber request for said selected one of multimedia presentations.

APPENDIX B

EVIDENCE

None.

APPENDIX C

RELATED PROCEEDINGS

None.